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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,131

11/03/2003

Ellyne Elizabeth Prodoehl

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27752

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05/03/2006

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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EXAMINER

LONEY, DONALD J

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/700,131	PRODOEHL, ELLYNE ELIZABETH	
	<b>Examiner</b>	<b>Art Unit</b>	
	Donald Loney	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006 and 15 February 2006:
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The last three lines of claim 9 contain an improper Markush group. In the third from the last line the structure is recited as "comprises a tissue-towel paper product". There after, a group containing polymeric films, plastic films, fabrics, laminates, metal foils and combinations thereof is recited. These materials are not consistent with the tissue paper towel limitation. Correction is kindly requested.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over any of Robb (3227598), Hale (3525663) or Jablonka et al (4555433).

All of Robb, Hale and Jablonka et al teach a three-dimensional product that contains raised projections that are connected by connecting elements that are recessed from and raised above the base of the product. It is noted that the second pattern can be no pattern at all that is distinguishable from the first pattern (see page 6, lines 12-14 of the instant specification). Refer to figures 2, 5 and 8 in Robb showing raised projection 20, 27 or 46 that are connected by connecting sections, shown by the U-shaped section at 17 and 30 in figures 2 and 5, that are recessed from the projections and are raised from the base (i.e. the bottom projection). Refer to the very similar structure in figures 1, 4 and 5 in Hale. This appears substantially the same as the dimpled structure as shown by applicants' figure 1. The first sub-pattern can be considered the section that connects the top of the front dimples in fig 1 of Hale by U-shaped connecting elements 6 and 7. The second sub-pattern can be considered the connection of the top of the projection 2-5, 15, 16 with the bottom projections 19, 20. Alternatively, the two patterns can be considered the rectangle section within the hexagonal pattern 46B (this would have the two sets of parallel rows that transverse one another) and triangular pattern 46A in figure 8 of Robb. Jablonka et al teaches three-dimensional products comprising raised protrusions 7 with connecting sections 6

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that are recessed and raised above the base 5. The two patterns can be considered the four raised projections 7 and straight line of sets of the four projections taken across the entire sheet. This forms two sub-patterns since there are two embossed patterns. One can also look diagonally across the sheet in figure 2 to see a second sub-pattern to what one can consider a first sub-pattern of the embossments that form parallel lines that transverse one another of any other section of the embossments. The primary references are silent as to the height of the projections. The examiner deems it inherent that these projections are at least 300 $\mu$ m (.011 inches) in height since the references are drawn to panel structures that would require a substantial thickness.

Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the primary references that the projection be at a height above that recited, motivated by the fact the references are drawn to panel structures that would require a substantial thickness.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graff (6461720) in view of McNeil et al (6129972).

Graff teaches a plurality of raised areas 22 that have connecting elements 24 there between that are partially recessed (i.e. smaller in height) from the raised protrusions. Refer to figures 1, 3 and 4. The height of the protrusions is 1.3mm (i.e. 1300 $\mu$ m). Refer to column 4, lines 3-10. This is within the applicant's claimed range of 300-5000 $\mu$ m, or at least 650 $\mu$ m of claim 5. Graff does fail to specifically disclose the first sub pattern as being first sets of parallel rows and second set of parallel rows, wherein the first set is not parallel to the second set. Graff does disclose the pattern can be of straight lines and at least some of the portions are at least partly mutually parallel (column 2, lines 1-7). Graff also discloses that the pattern can be of a wide variety of patterns (column 4, lines 42-44).

McNeil et al discloses that patterns of two sets of parallel rows, wherein one set is not parallel to the other is known to be embossed in paper articles. Refer to figures 3, 4A, 4B and 4C. In figure 3 the two sets of parallel rows can be considered either the horizontal and vertical ones or the diagonal ones (i.e. the ones denoted by the lines that make an X). The same applies to figures 4A-4C, looking at horizontal and vertical lines.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Graff to form the first sub pattern of two sets of parallel lines wherein one set is not parallel to the other, as taught by McNeil et al, in order to

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form a pattern of two sets of parallel rows, wherein one set is not parallel to the other motivated by the fact the primary reference teaches straight line patterns can be used and also a variety of patterns can form therein. Per claim 2, as stated above, the second sub pattern can be no pattern at all. Not until claims 3 and 4 is the second sub pattern positively recited as being protrusions, however, it would be obvious to one of ordinary skill in the art to form another pattern motivated by the fact Graff discloses more than one pattern can be formed as shown in figure 1. Regarding claim 6 the pattern is repeating since it of a plurality of straight lines.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection. The examiner notes the applicant deleted the upper limit for the protrusions in the claim 9 by amendment, therefore, the rejections as above apply there to. Also, the applicant has a Markush group in claim 9 that contains other materials than tissue paper as explained above.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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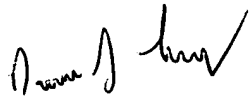
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJL:D.Loney  
04/28/06

  
Donald Loney  
Primary Examiner  
Art Unit 1772